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A P P E A L, &c.

[Price One Shilling and Six-pence.]

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A P P E A L
TO THE
JUSTICE AND INTERESTS
OF THE PEOPLE OF
G R E A T B R I T A I N,
IN THE PRESENT DISPUTES WITH
A M E R I C A.
BY AN OLD MEMBER OF PARLIAMENT.

L O N D O N :
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1774



IT is against the franchise of the land for freemen to be taxed, but by their own consent. *Sir Edw. Coke.*

RESOLVED—That the antient and undoubted rights of every freeman are—that he hath a full and absolute property in his goods and estate, and cannot be taxed but by comon consent. *Comm. Journ. N. I. p. 878.*

A TAX granted by the parliament of England shall not bind those of Ireland, because they are not summoned to our parliament.

Opinion of the judges of England, 20th of Henry VI.

IRELAND hath a parliament of its own, and maketh and altereth laws, and our statutes do not bind them, because they do not send knights to our parliament.

Opinion of the judges of England, 2d of Rich. III.

You have no right to tax America—I rejoice that America has resisted—two millions of our fellow subjects, so lost to every sense of virtue as tamely to give up their liberties, would be fit instruments to impose chains upon the rest.

Lord Chatham.

MY researches have more and more convinced me that you have no right to tax America.—I will maintain it with my last breath—taxation and representation are inseparable.

Lord Camden.

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A State of contention between Great Britain and America, is not only disagreeable but dangerous. We have every influence of interest and affection to attach us to each other, and make us wish to preserve the union indissoluble. The same laws, the same religion, the same constitution, the same feelings, sentiments and habits, are a common blessing and a common cause. We have these general benefits to defend against the rest of the world, which is hostile to all, or to the greater part, of them.

With ties so strong to bind us to each other, is it not strange, is it not deplorable, that we should differ? Do they who talk of chastising our colonies, and reducing them to obedience, consider how much we hazard when we dissolve these ties? What are we to substitute in their place? Force and Fear; which Tacitus wisely tells us, are *infirma vincula, quæ ubi removeris, qui timere desierint, odisse incipient*. When these

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consequences follow from the coercive measures we are now pursuing, will the counsellors who have impelled us to them, by representations not, I am sure, very fair, defend us from their fatal effects?

It is from experience only that nations learn wisdom. But unhappily sometimes the injury of the experiment is irretrievable. We have too much reason, I think, to apprehend that this will be the event of our present conduct. The course of the last war gave us proof of the strength and success which arises from the cordial attachment of our colonies; and in all human probability, the next war will convince us of the feebleness which flows from their disaffection. I hope to prove incontestably, that they aided us during the last war with a degree of zeal and efficacy which we can never again expect, at least unless our language and conduct be totally reversed. The war found us united; it was conducted gloriously upon the strength of that union; and left us in perfect harmony. Unhappy were the councils which disturbed that harmony; unhappy was the idea of taxation, which, without being productive of any one of the benefits expected from it, has given birth to a thousand calamities which were not foreseen. From the æra of this innovation we are to date all the disturbances which have shaken the whole empire; and which if we do not treat them with more wisdom, must inevitably end in the dissolution of all American dependence on the parent state. In considering this subject, two very material questions immediately present themselves.

Whether

Whether we have a right to tax the colonies ?
and, Whether it be expedient to exercise that right ?

If a dispassionate examination should shew, that both or either of these must be answered in the negative, it will prove that our present measures are not dictated by political wisdom.

In order to determine whether we have a right to tax the colonies, we must consider the nature of taxation—in whom the right of granting money resides—and from whence that right arises.

Taxation is the giving and granting the property of the people, by themselves, or by persons authorized by them, who are called their delegates or representatives. From hence it follows, that the right of imposing taxes resides originally in the people, and then in the representative body ; and that it arises from the delegation of the people.

The very idea of property involves in it an exclusive right of giving it by the immediate or intermediate consent of the possessor. For as Mr. Locke says, What property can I have in that which another may take away at his pleasure ? It is therefore a fundamental principle in our constitution, and was, until the reign of Henry the sixth, the invariable practice of it, that the property of the people, not one man excepted, could not be granted but with his own consent, given by himself or his representative chosen by himself. It was upon this principle that until that reign, every man in the kingdom gave his vote, or had a right to give his vote, for the election of a representative, on whom

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that power was devolved. The seventh of Henry the fourth, made upon complaint of this right having been disturbed, ordains, that all the people shall elect indifferently. Their being residents in the county is the only qualification required. It was not until the eighth year of Henry the sixth, that the possession of forty shillings *per annum*, in any part of the kingdom, was made necessary to give a right of voting; which qualification was, in the tenth year of the same reign, restricted to freehold in the county. It is plain from this, that the writers who have controverted Mr. Locke's position, that, upon the principles of the constitution, "the supreme power cannot take away any man's property without his consent," were either unacquainted as well with the principles as the practice of the constitution, or artfully misrepresented them. This view of our constitution shews also the propriety of that emphatical and brilliant expression of Lord Camden, that—"there was not a blade of grass which when taxed, was not taxed by the consent of the proprietor."

That taxation and representation are constitutionally inseparable, and that it was the fixed principle of government, that the property of the people could be given by their consent only, signified by their representatives, chosen by themselves, appears beyond controversy, both from general considerations, and from a variety of particular proofs, arising from ancient and undoubted records.

The general considerations which support these positions are—That it is an eternal law
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of Nature, so incident to and inseparable from the very idea of property, that no property can exist without it. "Whatever is a man's own, no other person can have a right to take from him, without his consent, expressed by himself or his representative. Whoever attempts to do it, attempts an injury; whoever does it commits a robbery—he throws down and destroys the distinction between liberty and slavery." Nor is this the discovery of Mr. Locke, or the peculiar provision of the English constitution. It was long since set forth by Cicero, in these words, *Hæc sunt fundamenta firmissima libertatis, sui quemque juris retinendi ac demittendi esse arbitrium*. It pervaded every feudal constitution in Europe, and was exercised with as much precision and jealousy by the States of France and the Cortes of Spain, as by the English House of Commons. *Auxilia*, says Bracton, *fiunt de gratia, et non de jure; cum dependeant ex gratia tenantium, et non ad voluntatem dominorum*.* Dr. Robertson tells us, "When any extraordinary aid was granted by freemen to their sovereign, it was purely voluntary."† And again, "It was a fundamental principle in the feudal system of policy, that no freeman could be taxed unless by his own consent."‡ Every one knows, from the most authentic accounts, that in the German constitution, from its earliest date, all the people had a right to be present in their assemblies, and assent to what bound them: *De minoribus principes consultant; de*

* L. 2. c. 16. † Hist. Charles V. p. 360. ‡ Ib. p. 36.

de majoribus omnes.† Hotoman informs us, that in France it was not lawful to debate on any thing concerning the commonwealth, but in the general council of the states.|| So tenacious were they in Spain of this general consent, that in the Cortes it was necessary every member should give his assent before the act was binding.* And I am well informed, that at this very day, no taxes can be raised upon the free cities of Brussels, Antwerp, &c. even by the Empress Queen, without the consent of every individual citizen who is present in the assembly.

To the sacred, eternal, and universal right of giving property, even a tyrant of the north has been obliged to bear his testimony. We have heard the present king of Sweden publicly declare to his people—that to be taxed by others was repugnant to the most precious part of their liberty, which consists in taxing themselves. “To this right,” says he, “of the nation to tax itself, I would have the greatest attention paid, because I am engaged by oath to let my subjects enjoy their liberties and privileges, without any restriction.”

From these external proofs and illustrations of the doctrine, that the consent of the owner is essential to the just disposal of property, so that the supreme power cannot, and never could, in any free state, take away any man's property without his consent; we come now to demonstrate it from the practice of our own constitution.

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† Tacitus. || Franco-Gallia, c. xi. * Martil Coths de Arrag.

It is certain that originally, and before the conquest, the right of being present in the great council of the nation, in which grants, if any, were made, belonged to every freeman in the kingdom. In an ancient record, quoted by my lord Coke, so far back as the reign of Canute, in the year 1030, the parliament is said to have consisted not only of great men, but—*quamplurimis gregariis militibus, ac cum populi multitudine copiosa ; ac omnibus adhuc in eodem parlamento personaliter existentibus, votis regis unanimiter consentientibus, præceptum et decretum fuit.**

The same recognition of the right of assent in every individual, to the disposal of his property, we find thus declared in *Magna Charta* :—

“ And for this our gift and grant of these liberties, and of other contained in our charter of liberties of our forest, the archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and *other our subjects*, have given unto us the fifteenth part of all their moveables.”† It was not the supreme power, whether you mean by that the King, or the Parliament, as it is now constituted, nor the representatives of the people in parliament assembled, but the people themselves, every one having a right to be present and consent to the grant or disposal of his property.

Upon the same ground, the King, in the statute *de tallagio non concedendo*, declares, that “ no tallage or aid shall be taken or levied, by us or our heirs, in our realm, without the good-will

* Pref. to the 9th Rep.

† C. 37. Art. 4.

“ will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and *other freemen of the land.*”* And the more expressly to shew how necessary the consent of every individual was deemed, to the gifts which affected his property, the same statute says, “ No officer of ours, or of our heirs, shall take corn, leather, cattle, or any other goods of *any manner of person*, without the good-will and assent of the *party to whom the goods belong.*”

Edward the first, or the English Justinian, was the wisest and most magnanimous of our princes ; and as he had too much justice to refuse what he knew to be the inherent right of his people, so he had too much wisdom and courage to be deluded or compelled into a concession which was not strictly constitutional. This statute is therefore deservedly held in great veneration, and is of high authority. M. De Lolme, a very sagacious researcher into the principles of our constitution, calls it, “ an important statute, which, in conjunction with *Magna Charta*, forms the basis of the English constitution. If it is from the latter,” says he, “ that the English ought to date the origin of their liberty, it is to the former they owe its security. If the Great Charter is the rampart that defends the liberties of every individual, it is this statute that protects the Grand Charter itself; and by which the people were enabled to make the law superior to the will of the crown.”†

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* 34 Edw. I. c. 1, 2. † *Constit. de l'Angleterre*, p. 28.

In the course of time, the acting by deputation, which was adopted for convenience at first, became a settled practice. Still, however, no freeman, of whatever denomination, was denied the right of voting for him who was to signify his assent, or be his representative in parliament, till the reign of Henry the sixth, when that right was restricted to persons having a freehold of forty shillings annual value.* This alteration in the system introduced two kinds of representation; real and virtual. They who retained the right of voting were *really* represented; they who did not vote, but yet were shielded and secured in their portion of property by the electors and elected bearing their proportion in the grants made, were *virtually* represented. Still, however, as the real electors, though greatly circumscribed in number, owned far the greater part of the lay property of the kingdom, the original idea of the grants being made by common consent continued, and governed all the parliamentary forms in voting supplies. The commons are said to give and grant, the King thanks his good people for their benevolence, and the lords are not permitted to originate, alter, or amend a money bill. There is but one instance within my knowledge, in which the house of lords were suffered to violate this rule. This was in the time of Richard the second, wherein the house of commons are said to have assented to an imposition which originated in the upper

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* It may be well questioned (according to the principles of Mr. Locke) whether parliament had any just right to take away from its constituents so essential a privilege.

house. It is true, that on the patent roll, 3 Edward I. and in a variety of other instances, they gave separately, and of their own property ; but these are additional proofs how prevalent the idea was, that property could be given only and absolutely by those who owned it.

Lord Clarendon says, the origin of supplies in the commons had never been disputed in the worst of times, and that the lords acknowledged it in 1640.* We are told in the Case stated,† a work known to be written under the inspection of the lords—that the lords say, “ as to “ what concerns their rights and privileges, “ they pretend not to be the beginners of any “ charge, to be laid on the estates of the subject, nor to increase or augment any that is “ already laid by the house of commons. This “ they conceive to be against the intendment of “ the law, 9 H. 4. and the practice of parliaments ever since.”

Is it possible that any one can, consistent with common sense, deduce the sole and incommunicable possession of this right of giving and granting by the house of commons, from any other origin than that of their representing the people ? This proof, therefore, would be alone sufficient to shew, that both in the principles and practice of the constitution, representation and taxation are inseparable, and that it is not the three estates, but those whom the people elect, who represent them.

But this position is still farther supported by the constant practice of the clergy in convocation.

* V. 1, p. 134. † P. 113.

tion. The clergy were subject to the general controul and superintending power of the supreme legislature ; but parliament never attempted to tax them, while they were represented in convocation, and not in the house of commons. Whenever they contributed to the support of government, they did it by their own consent, signified in their convocation, in which my lord Coke says, they were all by representation, or in person, present.* It appears by the roll of the 4 Rec. 2. N^o 13, 14. that when the house of commons offered to grant an aid, if the clergy would pay one third, as they possessed a third of the realm, the clergy answered—They were not to grant aids by parliament, and therefore willed the commons to do their duty, and they would do theirs. This is in effect the language of America, yet it is idly called a strange new-fangled doctrine.†

From all these general views of the constitution, both in its principles and practice, it appears to be one uniform and inviolable rule, that property could not be given but by consent. Whether that consent was signified in person, or by representation, was a matter merely of convenience. So much so indeed, that every one knows the representatives were formerly paid for their trouble in attending upon the business of the whole. The act of Henry the sixth, which prescribed a qualification for electors, regulated the exercise, but did not abolish

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* 7 Co. 73.

† A doctrine as old as the constitution itself, interwoven in its very stamina, drawn from the first principles of natural justice, and essential to the existence of property.

the right ; for there is a manifest and eternal difference between regulating the mode in which a right may be enjoyed, and establishing a principle which entirely annihilates that right. To establish the power of the British parliament to give and grant the property of the people of America, is most clearly to annihilate their right of consenting to the disposal of that property, in whole or in part, in person or by representation.

How far this is consistent with the existence of property, with the principles and practice of all free constitutions, and especially of our own, I have already furnished the reader with the general means of judging. I shall now proceed to shew, that the same principle pervades and governs the particular instances, in which it was necessary that distinct parts of the empire should contribute to the support of government, in doing which their own consent was always deemed indispensable.

In the tenth year of Edward the first, this prince being under a necessity of demanding supplies, applied to his subjects in Ireland, distinctly, to solicit a loan to enable him to carry on the war against Wales.* Unsettled as the state of Ireland then was, the right of granting their own property was considered as so essential to an English subject, that the application was not made to the parliament at Westminster, but to the people themselves, whose money was to be given.

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* Rym. ex Rol. Wall. 10 Ed. i. Leland, v. 1. p. 248.

When the same prince was again in distress, he applied first to the clergy of Ireland, for an additional fifteenth of the spiritualties, and they peremptorily refused to comply with the requisition. The King respected the right of refusing, though the refusal itself was so grievous a disappointment to him. He therefore neither called in the absolute power of his English parliament, nor of his army, to enforce the requisition, but applied to the laity of Ireland, from whom he received more satisfaction. Dr. Leland tells us, that "after some altercation and delay, they granted him a fifteenth of their effects."* Thus this magnanimous prince, well satisfied that it was the inherent right of an English subject, not to have his property taken from him, but by his own consent, given by himself or by his representative chosen by himself, whether that subject was in England or Ireland, he applied to him or to his representative for the supplies which were to arise out of his property.

But we find the inseparable connection of representation and taxation still more irrefragably proved, in the reign of Edward the third. I will state the transaction in the words of Dr. Leland. It is distinguished and decisive.

"The parliament of England grew uneasy
 "under the burthen of supporting the King's
 "Irish dominions; they remonstrated; they
 "solicited that strict enquiry should be made
 "into the deficiencies of the royal revenues in
 "this realm. The King was no less impatient
 "to

* Leland, p. 251.

“ to find any part of the supplies destined to
 “ his military service, diverted to a purpose
 “ which he deemed of much less moment, the
 “ support of a disordered government in Ire-
 “ land. An agent, called Nicholas Dagworth,
 “ was dispatched into this country : his in-
 “ structions were to represent the necessities of
 “ the crown, and the grievous deficiencies of the
 “ Irish revenue ; to convince the King’s mi-
 “ nisters of the necessity of exerting themselves
 “ for the interest of their royal master. It was
 “ particularly directed that an Irish parliament
 “ should be convened without delay, for the
 “ purpose of granting such a liberal subsidy, as
 “ should provide not only for the exigences of
 “ their own state, but for the assistance of their
 “ sovereign in his foreign wars. The parlia-
 “ ment was assembled ; *they pleaded the poverty*
 “ *of the realm, and refused the supplies.* Ed-
 “ ward was provoked ; he issued his writs of
 “ summons both to the clergy and laity. The
 “ bishops were commanded to chuse two of
 “ the clergy in each diocess ; the commons to
 “ chuse two laymen in each county, to repre-
 “ sent the lords and commons in that county ;
 “ the cities and boroughs, in like manner, each
 “ to elect two citizens and burgeses. The
 “ assembly was directed to repair to the King
 “ in England, to treat, consult, and agree with
 “ him and his council, as well on the govern-
 “ ment of the land of Ireland, as the aid and
 “ support of the King’s war.”

We have the answers of the archbishop of
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summons distinctly recorded. " We are not
" bound, said the prelate, agreeable to the liber-
" ties, privileges, rights, laws and customs of the
" church and land of Ireland, to elect any of our
" clergy, and to send them to any part of Eng-
" land, for the purpose of holding parliaments or
" councils in England; yet on account of our
" reverence to our lord the King of England,
" and the now imminent necessity of the land
" aforesaid, saving to us, and to the lords and
" commons of the said land, all rights, privi-
" leges, liberties, laws and customs before-men-
" tioned, we have elected representatives to
" repair to the King in England, to treat and
" consult with him and his council; except,
" however, that we do by no means grant to
" our said representatives any power of assenting
" to any burdens or subsidies to be imposed on
" us or our clergy, to which we cannot yield,
" by reason of our poverty and daily expence
" in defending the land against the Irish enemy.
" In like manner we find the county of
" Dublin at first elected their representatives,
" without power or authority to consent to the
" imposition of any burdens. The King com-
" plained of the election as insufficient and irre-
" gular, and the sheriff was directed to make
" another return, in presence of the treasurer and
" chief justice of the King's-bench. Difficulties
" were started and delays contrived; at length
" the nobles and commons, unanimously and
" with one voice declare, that, according to the
" rights, privileges, liberties, laws and customs
" of the land of Ireland, enjoyed from the time
" of the conquest of the said land, they are not
" bound

“ bound to send any persons from the land of
 “ Ireland to the parliament or council of our
 “ lord the King, in England, to treat, consult,
 “ or agree with our lord the King in England,
 “ as the writ requires. Notwithstanding, on
 “ account of their reverence, and the necessity
 “ and present distress of the said land, they have
 “ elected representatives to repair to the King,
 “ and to treat and consult with him and his
 “ council, reserving to themselves the power of
 “ yielding or agreeing to any subsidies. At
 “ the same time protesting that their present
 “ compliance is not hereafter to be taken in pre-
 “ judice to the rights, privileges, laws and cu-
 “ stoms, which the lords and commons, from
 “ the time of the conquest of the land of Ireland,
 “ have enjoyed.

“ What was the result of this notable con-
 “ troversy between Edward and his subjects of
 “ Ireland, or whether or how far the King’s ne-
 “ cessities were supplied, we are not distinctly
 “ informed. It only appears, that the Irish re-
 “ presentatives sat at Westminster, and that their
 “ wages were levied on the dioceses, counties
 “ and boroughs which had chosen them.”*

The unquestionable conclusion from this re-
 cord is, that to give and grant the property of
 English subjects, in an assembly wherein they
 were not present in person or by representation,
 was deemed so unconstitutional, that no necessity
 could prompt or justify it. The parliament at
 Westminster did not consider this doctrine as
 repugnant to their rights, or trenching upon
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* Ibid. p. 327.

their authority ; though they were by no means disposed to yield any of their privileges to the crown, or permit an illegal exertion of the prerogative. This record is also a proof that the sole right of giving was so inherent in the owner of property, that the people at large might delegate it in whole or in part ; might restrain it entirely, or reserve to themselves the controul of consenting to the grant of their representatives, to give it final efficacy. It appears too, from the writs issued upon that occasion, that every person concerned, without any farther qualification in the conduct of the representatives, was to give his voice in electing them. The words of the writ are, *Archiepiscopis, episcopis, vice-comitibus, senescalles, majoribus, superioribus & præpositis, ac omnibus aliis ejusdem terræ quorum interest, ad electionem hujusmodi duarum personarum, in Angliam in forma prædicta transmittendarum, faciendam.**

In tracing the history of the Irish parliaments, we find they not only knew their right of granting money, but how instrumental it was in obtaining a redress of grievances. In the reign of Henry the fifth, they accompanied the grant with a representation of grievances.† In the year 1585 the ordinary subsidy bill was rejected by the commons of Ireland ; the reason appears to have been a complaint of grievances, and an apprehension of more, especially of oppressive and extraordinary taxation.‡ Queen Elizabeth, during whose reign this happened, had too much
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* Appendix to Leland's hist. p. 365. † Leland, v. 2, p. 13.

‡ Leland, v. 2, p. 296.

spirit to have acquiesced in this refusal, could she or any one about her have conceived that the intervention of her English parliament might grant the subsidy out of the property of the people of Ireland, without the most flagrant violation of their constitutional rights. Neither is it probable that the Irish commons would have hazarded such a measure of opposition, had they imagined themselves liable to be taxed in the English parliament, and thereby deprived of this means of enforcing a redress of grievances. In the reign of James the first, we find them restored to good humour by conciliatory measures; and then they granted a liberal subsidy with so much alacrity and zeal, that the King returned them thanks, in a flattering letter addressed to the Lord Lieutenant.* Charles the first, and his favourite Wentworth, tried every art to persuade them to make liberal and permanent grants; the threat of interposing the King's prerogative was added. Under the influence of promises and fears, the commons made a grant of four entire subsidies.† Neither the King nor his deputy were sincere, the graces they promised were not granted; the commons therefore contrived a method of frustrating the collection of the subsidy, and the civil wars which soon followed put an end to all further requisitions,

I have been more particular in stating these facts with relation to Ireland, because it is impossible to find a case more exactly similar to that of America. They were both conquered countries, peopled by English subjects. Yet in all the

* Ibid, p. 457. † Irish journ. 1642.

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the agitation of necessity and passion, and the various expedients it produced, that of imposing taxes upon Ireland in the English parliament was never attempted. There are however some differences in favour of America. In the former, the conquered people and the English were in some measure intermixed; in the latter, they were and still continue totally distinct. The English subjects who settled in Ireland carried with them their rights, not expressed but latent; whereas those of the American settlers were confirmed by charters. I am far from thinking that charters create rights; they are inherent in and unalienable from the person of the subject. Allegiance and protection in these rights are a mutual compact between the prince and the people. As emigration does not dissolve allegiance, neither can it divest rights: they involve each other, and are inseparable. But so solemn a recognition and confirmation of them, as charters under the great seal of a kingdom manifest, renders the violation of them still more conspicuous and criminal. From the history of Ireland we learn another difference, which is, that taxes were levied in England to defend and protect that country for some time after its settlement; whereas all the old colonies in America were settled, and the wars carried on with the natives, solely at the expence of the settlers themselves; this country bearing none of the burthen, but reaping infinite benefits from the settlement. Canada, Florida, and Nova Scotia, are exceptions to this; but they are acquisitions obtained from France and Spain.

which belong therefore to this country, and will soon repay with interest the supplies which have been voted for them.

As it was therefore most clearly considered, that English subjects emigrating to and settling in Ireland, tho' a conquered country, were not liable to be taxed by the English parliament, it seems strange to contend that the same subjects settling in America were liable to such taxation. The supreme power of this parliament has been always asserted and frequently exercised over Ireland; the right of giving and granting their money for the purposes of a revenue, never. Who is it that can point out a difference adequate to so great a diminution of English liberty in the person of him who emigrates to America, as that he shall not only be subject to the supreme power of the British parliament, but to be taxed where he is not represented.

Now it is not only impossible, I conceive, to give any plausible reason for this distinction, but it is clear that no such idea was ever seriously entertained till the year 1764. What can be a more, decisive proof of this, than that the people of America have always chosen representatives of their own, and that the crown has constantly applied to those representatives for the supplies which were wanting? If the settled, notorious, invariable practice of government, be not evidence of the constitution, from whence are we to learn it? If it had not been consistent with the constitution, and essential to the free state of an English subject, that he should chuse representa-

representatives who only should impose taxes upon him, how did it happen that both in Ireland and America our colonists, without any special law to direct it, from their earliest infancy chose such representatives, who have always exercised that authority. Had this been illegal, surely the crown would not have encouraged it, by constantly making requisitions thro' its governors, and giving assent to laws imposing taxes by the authority of provincial assemblies, nor would parliament have permitted a practice, which makes those assemblies coequal with themselves. It is, I apprehend, most undeniable, that either parliament has no right to impose taxes upon the people of Ireland and America, or they have the sole right; for nothing can be so absurd as to suppose a people subject to two taxing powers, not communicating with each other, not knowing what each other are doing; in consequence of which the people might be burthened with a double tax upon the same thing, so as to be productive of perpetual confusion and distress. This would plainly be such an inconsistency in politics, as would render government at once ridiculous and oppressive. The assertion therefore at this day, of the right of parliament to impose taxes upon Ireland and America, involves in it the highest criminal charge against all those who have for centuries been active or acquiescing in the imposition of taxes upon the people of those countries, which according to the modern doctrine, the authority of parliament only could impose. If they justify by pleading that they

they were the representatives of the people whose money they granted, the admission of that plea will defeat the pretensions of parliament, who do not represent them. †

That representation and taxation were ever deemed inseparable, the following copy of a petition from the county Palatine of Chester, in 1450, is an eminent proof.

“ Most christian, benigne, and gracious King,
 “ we your humble subjects, and true, obaissant,
 “ liege people, the abbots, priors, and all the
 “ clergy, your barons, knights and esquires,

† There is a solemn resolution of the house of commons, that no tallage, loan, benevolence, or other like charge, ought to be commanded or levied by the King or any of his ministers, without common consent of parliament. If it had been imagined that this resolution concluded to all the subjects of the empire, if an idea had been entertained, that the consent of parliament involved in it the consent of Ireland or America, what minister would have ventured to advise the King to ask money from the commons of Ireland and of America, and to have levied it upon the people by the authority of their legislatures? Every minister who gave such advice, would have hazarded his head; no parliament would have endured so open a violation of its rights and of the constitution. But no such supposition ever entered into any man's head, and therefore, it has been the established and unimpeached practice, ever since the foundation of our dominion in those countries, for the King to make requisitions for supplies to their representatives, and levy taxes by the authority of their legislatures. The instances of this are innumerable. It has been done by every minister, at all times, and in every reign. It has been repeatedly announced with regard to America, to the house of commons, in the King's messages, without question or complaint. It remained for the new-fangled doctrine of this day to maintain that America was represented in parliament. A doctrine involving consequences which they who broached it were far from foreseeing. It would devote their dearest connections to impeachment, and brand the memory of every minister who preceded, as a traitor to the constitution of his country.

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“ and all the commonalty of your county Pa-
“ latine of Chester, meekly prayen and be-
“ seechen your highness—Where the said coun-
“ ty is and hath been a county Palatine, as
“ well before the conquest of England as con-
“ tinually since, distinct and separate from the
“ crown of England; within which county
“ you and all your noble progenitors, sithen it
“ came into your hands, have had your high
“ courts of parliament—and no possessioners or
“ inheritors within the said county be not
“ chargeable or liable, nor have not been
“ bounden, charged, nor hurt of their bodies,
“ liberties, franchises, land, goods nor posses-
“ sions within the same county, but by such
“ laws as they have agreed unto—and also they
“ have no knights, citizens, na burgeses, na
“ ever had, of the said county, to any parlia-
“ ment holden out of the said county, whereby
“ they might in any way of reason be bounden—
“ which franchises, notwithstanding there be
“ your commissions directed out to several com-
“ missioners of the same county, for the levy
“ of subsidy, granted by the commons of your
“ land, in your parliament late begun at West-
“ minster and ended at Leicester, to make levy
“ thereof within the said county, after the form
“ of their grant thereof, contrary to the liber-
“ ties, freedoms and franchises of the said coun-
“ ty and inheritance of the same, at all times
“ before this time used, that please your noble
“ grace, of your noble favour, the premises
“ graciously to consider, and hereupon to dis-
“ charge all such commissioners of levy of the
“ said

“ and

“ said subsidy within the said county, and of
 “ your special meer grace, ever to see, that
 “ there be never act in this parliament, nor in
 “ any parliament hereafter holden out of the
 “ said county, made to the hurt of any of the
 “ inheritors or inheritance of the said county,
 “ of their bodies, liberties, franchises, goods,
 “ lands, tenements or possessions, being within
 “ the said county. For if any such act should
 “ be made, it were clean contrary to the liber-
 “ ties, freedoms, immunities, and franchises of
 “ the said county, &c. &c. &c.”

A N S W E R.

“ The King’s will is, to the subsidy in this
 “ bill contained—Forasmuch as he is learned,
 “ that the beseechers in the same, their prede-
 “ cessors nor ancestors, have not been charged
 “ afore this time, by authority of any parlia-
 “ ment holden out of the said county, of any
 “ quindisma or subsidy, granted to him or any
 “ of his progenitors in any such parliament,
 “ that the beseechers and each of them be dis-
 “ charged of the paying and levy of the said
 “ subsidy, &c. &c. &c.”

This petition and answer require no com-
 ment: they plainly recognize, that to impose
 taxes where the right of doing it is not dele-
 gated, was unusual and unconstitutional. The
 same principle operated in forming acts of
 the legislature for representatives to be sent from
 Wales and the county of Durham to the Eng-
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to Calais for the same purpose, when it became a part of the empire. It was invariably conceived, that the property of English subjects, connected with the general dominion, could not be granted but in an assembly where they were represented. Upon this principle our constitution manifestly stands; and to subvert the one, would in effect be to overthrow the other. The practice of every free state, especially of England; the practice of Ireland, Chester, Wales, and Calais, as members of the empire; the constitution of the church, and the very nature of property, all conspire to shew, that this principle is the essential right of the subject in every part of the dominion. The right of property is the guardian of every other right, and to deprive a people of this, is in fact to deprive them of their liberty.

Let me now have leave to shew, that these have been invariably the sentiments of those great men, whom we allow to be the best acquainted with our constitution, and its firmest defenders.

“I will begin,” says Sir Edward Coke, “with a noble record—it cheers me to think of it, the 26th of Edward III. It is worthy to be written in letters of gold—“Loans against the will of the subject, are against reason and the franchises of the land.”—What a word is that *franchise*! The lord may tax his villain, high or low, but it is against the franchises of the land for freemen to be taxed but by their own consent.”

The reasoning of Mr. Locke is so clear and conclusive, and his authority so great, that it is

not necessary to give the words of Sidney and Milton, whose opinions were precisely the same.

“The supreme powers cannot,” says Mr. Locke, “take from any man any part of his property, without his own consent. For the preservation of property being the end of government, and that from which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to have lost that by entering into society, which was the end for which they entered into it—too gross an absurdity for any man to own. Men, therefore, in society having property, they have such a right to the goods which by the law of the community are theirs, that nobody hath a right to take their substance, or any part of it, without their own consent. Without this they have no property at all: for I truly have no property in that which another can of right take from me, when he pleases, without my consent. Hence, it is a mistake to think that the supreme or legislative power of any commonwealth can do what it will, and dispose of the estates of the subject arbitrarily, or take any part of them at pleasure.”*

It is impossible an express advocate for America could speak more explicitly to the point, and Mr. Locke's argument is evidently founded on the statute *de tallagio non concedendo*, which declares, that the goods of no manner of person shall be taken, without the good will and assent of the party to whom the goods belong; and
upon

* On government, fol. p. 197.

upon a solemn resolution of the house of commons, which maintains that the ancient and undoubted rights of every freeman are, that he hath a full and absolute property in his goods and estate, and that no tallage, loan, benevolence, or other like charge, ought to be commanded or levied by the King, or any of his ministers, without common consent in parliament.† I have already shewed, that it never was the idea that the common consent of America was given in the parliament of England; the term did not even include the clergy, who never were taxed in it till they were represented; and who told the commons, in the record I before cited, that they were not to be taxed there; to which the commons assented. The doctrine was held neither novel, insolent, nor unconstitutional; and the practice was uniform, notorious, and uncontroverted.

Taking up then the American question on this constitutional ground: either the Americans are not freemen, or to impose taxes upon them in parliament, in which not one of them is represented and therefore cannot give his consent, is to divest them of all property, and dissolve the original compact upon which, according to Mr. Locke, they entered into society. These considerations mark the propriety of what my Lord Camden urged with so much real eloquence, in his unanswerable speech against the declaratory bill. “ My position is this—I repeat it—I will maintain it to my last hour—Taxation and representation are inseparable. This position is
 E 2 “ founded

† Com. Journ. V. 1. p. 878.

“ founded on the laws of nature. It is more—
 “ it is itself an eternal law of nature. For
 “ whatever is a man’s own, is absolutely his
 “ own—no man has a right to take it from him
 “ without his consent. Whoever attempts to
 “ do it, attempts an injury—whoever does it,
 “ commits a robbery ; he throws down and
 “ destroys the distinction between liberty and
 “ slavery.”

Upon these principles our own constitution stands ; upon these principles the American claim is founded. If they are fallacious, then were our own claims usurpations upon the crown, and the glorious revolution itself was nothing more than a successful rebellion ; Hampden, Pym, Sidney and Russel, than whom Greece with all her patriots, and Rome with all her heroes, produced no men who trod this mortal stage with more dignity, or quitted it with greater lustre, were sturdy traitors. Surely those pretensions cannot be just, which so manifestly subvert, in principle, the foundation of our constitutional liberties !

That this claim and right of giving their property by their own consent, signified by their representatives, is not novel, but coeval with their existence as colonies, will fully appear from the following proof.

In 1620 the colony of Virginia, then in its very infancy, chose representatives, by whom only they have been taxed from that time till 1764. It was not by charter that they established and enjoyed this privilege, but by the operation of those rights which are inherent in Englishmen,

raen, in whatever part of the dominion they inhabit. The same plan of government was pursued in every colony in America. In truth, an Englishman had no idea of any other constitution, and always considered it as the basis of public liberty.

In 1625 king Charles the first signified his intention of substituting a governor and council as the legislature in Virginia. Upon this a general disquietude and dissatisfaction prevailed through the colony. The assembly remonstrated against it, as "an assault upon their rights and privileges." In consequence of this, the privy council at last sent them a letter, dated the 22d of July, 1634, containing the royal assurance and confirmation of their estates, trade, freedom and privileges. Upon the dissolution of monarchy, the commonwealth dispatched a governor with a squadron to take possession of Virginia. He was permitted to land upon articles, of which the following is one, and decisively shews what were their original ideas of their rights. *Article fourth*, "Virginia shall be free from all taxes, customs and impositions whatsoever, and none shall be imposed on them without consent of the general assembly."

The assembly of New York, in 1708, resolved, "That it is, and always has been, the unquestionable right of every freeman in this colony, that he hath a perfect and entire property in his goods and estate. That the imposing taxes, and levying of any monies upon her majesty's subjects of this colony, under any pretence or colour whatsoever, without consent in general assembly,

sembly, is a grievance, and a violation of the people's property."*

Thus we see, that this right of giving their money by their own consent alone, has been always claimed, asserted, and exercised by the Americans; and that the crown and parliament as constantly recognized the exercise of it, till the year 1764. Let the right therefore reside really where it will, it is very clear that the novelty of claiming it is on our side: but if the uniform claim and exercise of a right, with our as uniform recognition and acquiescence for one hundred and fifty years, will not render it clear and unimpeachable, I know not by what lapse of time, or by what circumstances, the enjoyment of any privilege can be rendered sacred and secure. It is plain that there was no period of their existence at which the colonies would not have reclaimed against an attempt to raise taxes upon them without the consent and grant of their representatives. With what truth then can the present opposition to it be imputed to a spirit of disaffection, and a desire to throw off all dependence upon the parent state? That dependence and subordination would remain the same that it ever was or ought to be, were the exercise of this novel, odious, and unprofitable claim disowned and abolished. There is a most material difference between a subject and a slave; between subordination and slavery. The Americans are subordinate, when we controul them, for our own advantages, in the means of acquiring property; when we add to that the practice

* Smith's History of New York, p. 115.

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practice of taking the property so acquired at our pleasure, they are slaves. What right have we, or can we have, to make them slaves? In my opinion we shall lose them as subjects by attempting to hold them as slaves. When that happens we shall be compleatly undone.

There are however some arguments against the position, that property can only be taken by consent, which are plausible, and have had such an effect as makes them worthy of examination.

It is said, that a great part of the people of England are not represented, and yet they are all taxed. This is granted: but how will it conclude to America? Because our representation here is imperfect, therefore it shall be abolished in America—because some in England are taxed without their consent, therefore all in America shall be treated in the same manner. The Americans are not contending that every man in America shall vote for a representative, or not be taxed; if they were, this would be a good answer, “We are ourselves but partially represented; why should the subordinate require more security than the supreme state?” But to the American question this argument is utterly inapplicable. The security of property, as Mr. Locke and common reason tell us, is the great end of representation. It is equal enough when that end is obtained. Now from the participation of the elected and the electors with the non-electors in the taxes which are imposed, the latter, as I before observed, have a virtual security, which is equal to that of those who do elect :

elect : but in the case of the Americans there is no such participation, and consequently no such virtual security ; nay, on the the contrary, as the givers of the money of the Americans (suppose them to be the British house of commons) save their own property and that of their constituents exactly in proportion to their lavishing that of the Americans, there is a temptation to extortion and extravagance, and therefore a virtual insecurity of property, which is overturning the very foundation of government. If, for example, a tax is laid on Manchester, Birmingham and Sheffield, the same is borne by London, Bristol and York ; but let Boston, New York and Philadelphia be taxed, will London, Bristol and York share in the burthen of the imposition ? The real situation of the unrepresented in England, and the people of America if subject to the same power of taxation in the British parliament, would be just as different as security and insecurity, or right and wrong.

We are next told, that parliament being the legislature, its acts must bind in all cases whatsoever ; that no line can be drawn, and therefore parliament has a constitutional right to impose taxes.

Before parliament has constitutional powers, it must be constitutionally formed. There is no magic or efficient power in the word which can give it that power ; it must be in part constituted by the people over whom its laws have sway in all cases whatsoever, or else it is not a constitutional power. With respect to Great Britain, it is so constituted ; with regard to America,

America, it is not; its power therefore cannot or ought not to be the same over both countries. The delegation of the people is the source of that power, most especially in point of taxation. That delegation is wanting on the part of America, and therefore the right cannot exist. It is true that the authority of the legislature makes laws for the levying money upon the subject: but unless the gift be previously made by the representatives of the people, there is nothing on which the act can work: the gift must be made first and distinct; the law comes after to prescribe the mode of levying it. The representatives are the sole source of the gift, the legislative act is the completion of it; but without a beginning there can be no end. It is therefore a position founded in the essential principles of the constitution, that "the supreme power, however it may make laws for regulating the state, cannot take the money of the people without their consent."*

The subsidies of the clergy, and a general pardon, will fully illustrate this. The houses of the legislature can alter nothing in them, and yet they give their assent to passing them into laws. But the things themselves on which the laws are founded are eccentric to parliament; they have their motion in another sphere: the convocation gives the one, the King of his free grace bestows the other: the parliament gives them only the force of laws, and may chuse in that, when they are prepared to their hands; but with the things themselves it cannot meddle, to originate or modify them.

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* Locke,

Any other mode of applying the power of the legislature to the levying of taxes is not constitutional, but arbitrary. It is confounding the principles of the constitution in the jargon of words, to say that parliament, because it is the supreme power, must therefore have a right to impose taxes upon the people, whether they are represented in it or not. Such a parliament would only be a plausible and powerful instrument of arbitrary power.

I shall close this question of right by observing, that as the power of giving is the great security of our liberties, so it is the only one which the Americans enjoy. Deprived of this, their situation would be desperate. Exposed to that jealousy which thousands are perpetually endeavouring to stimulate against them——without any power or means to counteract or resist its effects——they would be at the mercy of every informer, of every governor, minister, and member of parliament. Whatever was moved against them would meet with no opposition; whatever was charged upon them would be received without question or enquiry. They would not only be slaves, but the most miserable of all slaves. In vain would they say, What is the freedom, what are those brutish privileges to which our charters have told us we are intitled? Where are those rights we have possessed above an hundred years ago, which we derived from solemn compact, which we have purchased by the restraint of our trade, by our acquisitions under those restraints, emptied into your lap as the great mart of our
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produce and of our consumptions, by fraternal attachment and unshaken allegiance? These were the price we paid for your friendship and your protection: but you have now left us nothing to pay, nothing to be protected.

Upon the whole of this question, it seems most manifest, that it is the ancient, undoubted right of English subjects, being freemen or freeholders, to give their property by their own consent only, signified by themselves or their representatives—That the right of giving money, and the right of making laws, are and ever were separate and distinct; the one residing in the representative, the other in the legislative body—That the house of commons claim and exercise the sole and incommunicable right of granting the money of the people of Great Britain, because that house alone represents them—That the house of commons ought not to claim or exercise such a right over the people of America, because that house does not represent them—That to levy taxes upon the people of America, by the authority of the British parliament, in which they are not represented, is unconstitutional; deprives them of the right of Englishmen, and reduces them to a state of absolute villanage.

From the consideration of the *right*, we come next to that of the *policy* of raising a revenue in America by the British parliament.

Is it practicable?—Is it profitable? Upon these points the policy must turn. To raise a revenue upon a distant and dispersed people universally in opposition to it, by an authority, questionable at least upon the soundest principles

ples of the constitution, and in fact denied—— Is this practicable? “ Oh, certainly,” says an advocate for this mode of government, “ have we not a superior force, have we not fleets and armies to compel their obedience?” Be it so—— But will the revenue pay the expence of this collection? If it will not, how is it to be profitable? One hundred thousand pounds *per annum* is the utmost that the most extravagant imagination ever expected from the taxation of America. Ten ships and as many regiments have not collected a twentieth part of it: double your force, and suppose it to collect the whole; your expence will at least treble your collection. My suppositions are extravagantly favourable to the coercive side of the question, and yet the conclusion is inevitably against it. Are these ways and means to answer the demands of a nation, sinking, as it is said, under its debt and its establishment?

But let us give this doctrine of force and of coercion its utmost effect. Let us suppose, that under a conviction of their inability to resist the whole force of Great Britain in a time of profound peace, every colony, every assembly, were to acknowledge your right, and promise implicit obedience, could you trust this acquiescence? Could any man be so weak as not to perceive, that they were reserving their resistance, till the time of war and the necessary avocation of our force should ensure its success?

Is there any man in his senses, who can seriously imagine we shall remain in peace for five years. Three young monarchs upon the principal

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principal thrones of Europe ; two old ones look-
 ing with hatred and revenge against us. Is this
 a state in which a continuance of peace is to be
 expected? To give the advocates then for com-
 pulsion their utmost wish, what is it but to
 obtain an uncertain advantage for some years,
 at the hazard of our ruin or humiliation for
 ever after? Let any man who has the least
 idea of the difficulties of conducting a war against
 the house of Bourbon and its allies, inform us,
 what wisdom, what resources could save this
 country from ruin, if in the emergency of such
 a war our American colonies should unanimously
 revolt from all obedience, and reject all com-
 merce with us. Who is it that thinks we could
 survive such a stroke? And yet this coer-
 cive policy is rendering it inevitable as fate.
 Of the disposition of the Americans to resist our
 authority as of late extended, which they think
 utterly unjust, there cannot be a doubt. If
 they suspend the efforts of that disposition, it
 can only be in their wisdom, to watch the most
 favourable moment. That of our being hard
 pressed in war is plainly such. The most dan-
 gerous conduct, therefore, for us, would be
 their acquiescence ; yet we should certainly see
 the ideots who are conducting these measures,
 triumph upon the receipt of such accounts from
 America. Lord North would be held up as the
 wisest and the most spirited minister that ever
 existed, and he would snuff up the incense of
 this adulation, in the very sincerity of his va-
 nity and folly. But it is neither Lord North
 nor his flatterers who will stand forth when the
 storm

storm rages, to shield us from the ruin their want of wisdom and of justice will bring upon us.

We have seen what would be the probable consequence of an acquiescence on the part of America, how dangerous, how fatal to us. Let us take another view of it. Let us suppose the Americans determined to resist our attempts to impose upon them this tribute. It will be inconsistent with our dignity to retract. The wisdom, the justice, the utility of persevering—these are all out of the question. Lord North will have America at his feet. They are his very words. Who says Lord North is not a bold speaking minister? To gratify him, let us see if we can compel the Americans to absolute obedience—How we can is doubtful—that we cannot, without ruining ourselves, is certain.

I acknowledge, I admire, even to enthusiasm, the bravery of our troops; what men can do, they will do: but in a country furnished with fastnesses and defiles without number, intimately known to the enemy you are to combat, where discipline is unavailing or embarrassing, and valour useless; it requires more than human power to succeed to any permanent purpose. God forbid that the bravery of such troops as the English, should be so vainly, so fatally employed. Let us suppose it true, as some vain-glorious military men have vaunted, that with four regiments you might march from one end of the continent to the other—What would this exploit avail you? The moment you quit one province for another, the commotions your presence suppressed will revive. When you have

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have marched through, you will have to march back again. But such bravadoes are contemptible. The man who is most forward to advise, is least fit to execute such arduous enterprises. Nor would the execution answer any other purpose, but that of pluming an individual at the expence of his country. They who remember the fatal overthrow of Braddoc by a few Indians in ambush, an overthrow incurred by the very discipline in which he vainly put his trust, will be apt to doubt the facility of reducing the colonies by military force. Difficult however as the reduction of our colonies may be, the preserving them in obedience to such a government would be infinitely more impracticable. But in the mean time, while our troops are employed in slaughtering the Americans, who is to cultivate the lands in America? Who is to furnish the gross materials of our commerce with them? Who is to consume the manufactures, and maintain the manufacturers to whom that commerce was daily bread? The wise ministers who planned these measures have surely provided for this. The necessity of such foresight could not possibly escape them: but what that provision will be, passes my understanding. I am, however, much afraid it will not be quite substantial enough to feed numbers who will be necessarily idle.

The naval stores, the iron, the indigo, the tobacco, the flax seed, which the labour of the Americans furnishes us, are we able to subsist without them, or to procure them from other nations? Have we forgot the humiliating terms
 to

to which Sweden attempted to reduce us? Our recourse then was to America. She supplied us, and removed that dependence, which would otherwise have left us at the mercy of foreign nations. When our wise measures have stopped up the American channel of supply, what will shield us from the exorbitancy of Sweden and Denmark? Naval stores are necessities; if we restore the monopoly of them, we must take the consequences of our folly. Until South Carolina and Georgia supplied us with indigo, we paid annually to our enemies, the French, 200,000*l.* in specie, for this article, so essential to the existence of a variety of important manufactures. We offered a bounty upon it. The Americans supplied us not only for our own consumption, but for foreign markets.* Instead of specie, they take in return our manufactures, loaded with all our taxes. If the policy which encouraged this commerce was wise, that which stops it must be foolish.

The duty upon tobacco brings into the revenue at least 400,000*l.* *per annum.* By what ways and means will this deficiency be supplied? The profit to this kingdom, upon the confinement of this article alone to the ports of Great Britain, and the returns for it in British manufactures and merchandize, amounts, at the lowest computation, to half a million yearly, exclusive of the duty. I shall be glad to know how this loss will be compensated. I will not enter into the thousand little streams of our American commerce, which all combined form a noble

* See Anderson's Dict. of Commerce,

noble river, that nourishes the navy, the manufactures, the fields of England; and maintains her upon that eminence of grandeur and glory, to which she is exalted. The value of the whole is incomputable. But I shall not think the detail necessary, till I see it rendered probable that this extorted American revenue will reimburse us for the loss of any one of these articles, indigo, tobacco, or naval stores.

Upon the supposition then, that in consequence of the measures we have lately adopted, unexampled in their rigour, unexampled in the violence and injustice with which they were conducted, America should be driven into real resistance; what will be the consequence? Our commerce, our navy, our revenue, our trade, our manufactures, will receive immediately a dangerous if not a fatal blow. But we shall be avenged! Our disciplined troops will put them to the sword, and destroy their plantations; our navy will burn their cities and their trading vessels. Alas, these would be fatal victories! These are the men whose industry and labour furnish the materials of our best commerce, the supply of whose consumption gives life to our manufactures; these are the plantations, the harvests of which we ultimately reap: these are the cities which are the reservoirs of an infinity of streams of trade, the profits of which are at last emptied into the lap of Great Britain. Were these men, these plantations, these cities trebled, the profits would centre in Great Britain, and add so much more to her strength and opulence. To diminish, to destroy them—

it is mischief irreparable, it is madness in the extreme; yet it is the inevitable consequence of the whole system of American measures, since the present reign.

We have thus seen the probable issue of hostile measures towards America. If we succeed, we are ruined. If we do not succeed—if by those extraordinary exertions which have often proceeded from people contending for their liberties, or by any of those accidents which have frequently decided the fate of battles and of empires, taking the victory from the strong and the race from the swift, we should be repulsed, to what a state of humiliation shall we be reduced! Such is the insuperable absurdity of the measure, that whether victors or vanquished we are sure of being sufferers.

I have not said a word about the intervention of other powers. Our wise ministers will tell us, this is improbable. There is not a part of the world upon which France looks with a more attentive eye than upon America. There is not the smallest event, relative to our proceedings towards the colonies, of which they are not minutely informed. If they should be idle spectators of such a contest, it would be one of the most extraordinary events that ever happened. No folly, less blind than that which formed these measures against America, would hazard such a supposition.

In every view of our proceedings against America, we see them unwise, perilous, and unprofitable. If passion and prejudice have not totally taken place of reason and

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enquiry, let the planners of this system shew us what they rationally expect from it. The most confidential men have repeatedly declared, in both houses of parliament, that a revenue is not the object. Lord Mansfield will not deny his declaration at least, and there is an host in him. In truth, whether this was meant in good faith or not, it is most veritable. No adequate revenue will ever be obtained from thence by forcible means. To what purpose then are we hazarding so great a stake as the commerce of this kingdom and the peace of America? Is it that the Whig principles are odious at court? Is it that the spirit of the revolution, which animates them, is hateful to every man who has abandoned the once loved Cocoa-tree, for the more auspicious closet?—Is it that a serious system of slavery has ascended the back stairs, the first line of which is to subjugate America? One would be very apt to suspect this, had we not the royal assurance that his majesty has no interest, can have no interest, separate from that of his people. A system of slavery can never be the interest of his people: but a little Popery, a little arbitrary power, French law, French religion, French government, and in America only—there can be no harm in that; there is no wind can blow them over to England; and if such an accident should happen, there will be honest men enough found to persuade us there is no harm in that either. One is always happy to see declarations so well supported by actions; and if it were possible to doubt the sincerity of the royal word, the

Quebec

Quebec bill, would make us blush at our suspicions.

The people are interested ; it is to them I speak. There is no feeling for their interests either in the cabinet or in parliament ; their representatives sacrifice every thing to their own pride and profit ; it now only remains with them, as the last resource, to insist on their representatives procuring a retraction of those foolish and arbitrary measures which have thrown all America into confusion, and threaten the utter ruin of the most valuable commerce we possess. The taxation of America may provide places and pensions for the tools and dependants of a minister ; but it never can relieve our national distresses, nor even compensate for the expence of carrying it into execution. The produce of American labour is spent in British manufactures ; the balance of trade is greatly against them ; whatever you take directly in taxes, is in effect taken from your own commerce. If the minister seizes the money with which the American should pay his debts and come to market, the merchant and the trader cannot expect him as a customer ; nor can the debts already contracted be paid. This is cutting up commerce by the roots : it is like the folly of a young man who takes from the principal of his estate to supply his wants ; we know in his case that such a practice will prove his ruin. The commerce of this kingdom is to the state what the principal of his fortune is to a private man. The same conduct leads to the same end. Suppose we obtained from America a million instead of

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an hundred thousand pounds, it would be supplying our present exigences by the future ruin of our commerce. Nothing can be more obvious. What is it then that can make us persevere in a measure, the very success of which must be our ruin ?

We are told, however, that the Americans pay no taxes, while ours are very heavy ; and that as they equally enjoy protection, they ought to contribute their proportion to the expence.

But the question is not *whether* the Americans shall contribute, but *how* they shall contribute ? Whether they shall be taxed by their own representatives or by ours ? They contributed during the war, but it was by their own assemblies ; the proof of this is from the records of the house of commons itself. The following is a copy of a message from his majesty to the house of commons, repeated for four sessions.

*Die Jovis 26^o Aprilis, anno 32^o Georgii secundi
Regis, 1759.*

George Rex.

His majesty being sensible of the active zeal and vigour with which his faithful subjects of North America, have exerted themselves, in defence of his majesty's just rights and possessions, recommends it to this house to take the same into consideration, and to enable his majesty to give them a proper compensation for the expences incurred by the respective provinces, in the levying, cloathing and pay of the troops raised by the same, according as the active vi-
gour

gour and strenuous efforts of the respective provinces shall justly appear to merit.

G. R.

This was in the good days of George the second. There was no junto, no back stairs business then ; a Whig King and Whig minister, speaking to a Whig people. A King who did not *profess* that he had no interest distinct from that of his people, but made them read it in his actions : a King who had too much dignity to deceive his people ; too much honour to contrive the ruin of their liberties. The system then was to *ask* the aid of the people ; the system now is, to *command* it. The Americans, we see, contributed then with zeal and vigour ; the event will shew whether the new system is calculated to inflame their zeal and encrease their ardour. Let us however remember, in the mean time, what credit those ministerial tools deserve, who have so confidently affirmed that the Americans did not contribute to the expences of the late war.

With equal truth is it said, that the Americans pay no taxes. I will give an estimate of the taxes, both internal and external, paid by the colony of Virginia, with the income and expence of the colony, and the balance will shew their ability to bear additional impositions.

EXPENCE.

EXPENCE.

	£.
Quit rents — —	10,000
Impost on tobacco — —	5,000
Tonnage on shipping — —	5,000*
British manufactures, one third of which, according to the British writers, arises from various taxes — —	800,000
Pole tax, land tax, wheel tax, &c. — —	100,000
From tobacco being restricted to the ports of Great Britain	100,000
Commission on the sale of the tobacco — —	120,000

GROSS PRODUCE.

	£.
From tobacco — —	660,000
Lumber, corn, grain and provision — — —	300,000
Total	1,140,000

It appears from this estimate, that a ninth part of the gross produce of the colony is paid for internal taxes—that as much is sacrificed to the acts of navigation, which restrict their trade to this country for our benefit—that a sum, almost equal to the whole, is expended in British manufactures and merchandize, which leaves the colony in debt, annually, 180,000*l.* The vast profits which the British merchants make upon this commerce, enable them to afford this

* These three sums, amounting to 20,000*l.* together with the quit rents in the other North American colonies, and the duty of $4\frac{1}{2}$ per cent, on all the produce of the West India islands, except Jamaica, amounting annually, at the lowest computation, to 100,000*l.* are paid to the crown, and never accounted for to parliament. Before any farther aid can with propriety be asked of our American brethren, should we not shew them that this 100,000*l.* is really applied to the exigencies of the state.

credit ;

credit; which when it rises to an extreme, is reduced by greater frugality in the planter, or by an extraordinarily favourable year increasing the quantity, quality, or price of his produce, and consequently the gross income of the colony.

The public will judge, from this situation of one of the richest colonies, of the ability of America to bear additional taxes. Were the right of imposing them ever so unquestionable, the impropriety of it would be manifest. A young people, loaded with an enormous debt of six millions, with the balance of trade annually against them, arising entirely from the restrictions we impose upon their trade, are not fit objects of additional taxation. Were these circumstances reversed, there would be some propriety in applying to them for relief from the load of our national debt and establishment: but as it is, were they ever so little inclined to question your right, or to resist the imposition of taxes, the consequence of imposing them would be ruinous; the inhabitants finding it impossible to live in such circumstances would retire back in troops, as our own are now emigrating from Great Britain and Ireland. Remote from the sea coast, they would live entirely within themselves, relinquishing all commerce with the mother country, and bidding defiance equally to the merchant for his debt, and the crown for its taxes. These measures being prompted by necessity would be irresistible: they would leave us a depopulated frontier to tyrannize over; and for this you would have sacrificed a valuable and growing

growing commerce, with all the strength and aid which we have received from the active zeal and vigorous efforts of an affectionate, industrious, loyal people. Were I an enemy to Great Britain, I would promote this very system, to humble, to overthrow her. Nothing operates like necessity: no human wisdom or virtue can produce equal effects. Persevere in these measures, and you will create that necessity, which will effect the independence of America beyond the operation of policy or persuasion.

How then are we to avert these evils? How are we to regain the confidence of America, and the commerce of Great Britain? Nothing more easy. Recall your fleets and armies; recall your commissioners; repeal your useless, your obnoxious laws; restore the establishment of America to what it was at the conclusion of the late war; cease to hold out rewards, as if in the public gazette, for fraud and imposition. The Barnards, the Hutchinsons, the Olivers, will without end make such credulity the ruinous instruments of their revenge, avarice and ambition. Such men never want the specious pretext of loyalty and order, to cover their interested views.

But it will be said, that to retract would be to resign our authority over our colonies. What——had we no authority over America till the year 1764, when these measures commenced? Was no revenue collected, no acts of parliament obeyed, no supreme power exercised or acknowledged till the stamp-act? Was that act founded upon any complaint of this kind?

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The fact is so far the reverse, that the revenue officers remitted more money home before, than since that act; the laws of trade were much better obeyed; nor was our supreme controuling power questioned or opposed. If these positions are not true, let those who advise these American measures, produce, if they can, any authentic evidence to refute them. I will refer to some of those laws, which, in our sovereignty, we made for America, and which, in their reluctance to dispute with us, they obeyed. In the restriction of their trade and manufactures, the exercise of our power was wantonly oppressive; yet until we passed that line, and attempted to take their money from them without their consent, that is, to make them the most abject slaves, we hear of no petitions, remonstrances, and associations against our acts. In proof of what I have said, I will recite some of the most grievous exertions of our supreme authority to which they submitted.

First, The prohibition from making steel, or erecting steel furnaces. This was the more severe, as it sacrificed all America to five or six persons in England, engaged in this manufacture, who are so far from being able to supply the market, that considerable quantities are yearly imported from Germany.

Secondly, Obliging them to land the Spanish and Portugal wines and fruit, which they import, in England, subject to high duties and heavy charges for re-shipping. This restriction not only grievously enhances the price of these necessary articles, but exposes their vessels
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to the danger and expence of an additional voyage of 1000 miles, in a boisterous sea, in time of peace ; and in time of war, to an advanced insurance of 25 *per cent*.

Thirdly, The restraint laid on the sale of hats, and the prohibition of exporting them. In consequence of this, an inhabitant of one province cannot buy a hat from his neighbour, being a hatter, in the other ; but must send 3000 miles for it, at three times the price, for the benefit of our manufactures. Is this no sacrifice on the part of America ? No advantage on ours ?

Fourthly, They are not suffered to erect plating or slitting mills, or tilt hammers. Thusthough iron is the produce of their own country, they must send it to England, and pay us for manufacturing it, before they are suffered to avail themselves of those advantages which God has given them. Nails, hoes, ploughs, axes, &c. they are under the greatest necessity of using, from the nature of their country, in great quantities ; yet they are obliged to take such as we please to give them, at our own price, loaded with our taxes, and the charges of double freight, commissions, &c.

Fifthly, They are prohibited from carrying wool, or any kind of woollen goods made in one colony, to another. A single fleece of wool or a dozen of home-made hose carried from one colony to another, is not only forfeited, but subjects the vessel if conveyed by water, or the wagon and horses, if by land, to a seizure, and the owner to a heavy fine.

Sixthly, The Americans are not permitted to carry logwood to any foreign market, without

previously bringing it to some British port, to land and re-ship it, at a great risque, expence, and loss of time.

I will not trouble the reader with more instances, though there are many. These are amply sufficient to shew what authority we had over them, and how rigorously we exercised it—how much to our own advantage, and to their loss. When we have destroyed the Americans, or dissolved by our injustice and extortion their connection with us, where is it we shall find another people whom we may thus make the instruments of our manufactures and commerce? Where is it we can secure a monopoly of the gross article, and of its consumption when manufactured? It is plain from these very restrictions that America is capable of manufacturing for herself; there is no doubt but that a little time would enable her to supply other nations. The desisting from this, confining themselves to the culture of raw materials, and consuming our manufactures loaded with every charge, tax and imposition, is the price they paid for the protection we gave them. We exacted it rigorously, yet they paid it willingly; severe as the restraints were, they flourished under them, and therefore did not complain: but when we assumed a greater power; when, not content with restraining their acquisitions, we began to take from them at our pleasure what they acquired under those restraints; this was a system of such glaring injustice that they could not submit to it: it was a system that left them nothing they could call their own. What incitement could
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any man in America have to be industrious or acquire property, when a house of commons, distant, unknown to him, unconnected with him, unelected by him, not sharing in the tax they imposed, or rather saving their own as they lavished his property, might dispose of it as they pleased, without his consent or participation, or those of any one deputed by him. Nor were we content with this, we subjected all their property to the judgment of a single judge of admiralty, without the intervention of a jury; a judge appointed by the King, subsisting at his pleasure, yet determining between the King and the subject, and payable out of the forfeitures which his judgment against the subject should produce. It is not in human wickedness and injustice to devise more infallible means of perverting justice and rendering property insecure. And that this most arbitrary measure, might be executed in the most odious manner, those men were appointed to these offices who had signalized themselves, not by their abilities and virtue, but by being infamous sticklers against their country. Let us contemplate for a moment the effect of this establishment of vice-admiralty courts. The law gives the custom-house officer the option of carrying his seizure into any one of the four courts appointed for all America. The officer makes his seizure in Pensacola, and libels in the court at Halifax, which is more than two thousand miles distant; the owner must be at the expence of going thither, must submit his property to the arbitration of such a judge, and whether the decision be for or against him, he can

can have no retribution for his expences, or for the delay, or for the damage his cargo may have received. The law has made the judge's certificate a protection to the officer against an action of damages.

It seemed however, that the oppression of America was not yet sufficiently severe ; all their judges were therefore rendered dependent upon the crown for their salaries and their places. The lives and liberties as well as the property of the people were to be at the mercy of the crown. To make the system compleat, their governors were rendered as absolute as the Spanish Viceroy ; in fine, to convince them that they were doomed to experience the last exertion of arbitrary power, a military force was sent to execute this system.

After all these injuries and insults, we are surprized that the Americans should be discontented ! We think it extraordinary that they should destroy the tea sent on purpose to compel the payment of a duty so imposed ! It is an injury to private property : but who offered the first injury to private property ? Who was it that claimed and exercised a right to dispose of all the property in America at their pleasure ? The British, not the American house of commons. A set of men assembled at Westminster, who have just as much right to dispose of property in America as the Divan at Constantino-ple has in England. This was the first interruption of that harmony which subsisted between the two countries ; a harmony under which the commerce and manufactures of this country

country so eminently prospered. The Americans were not the aggressors: they received the news of the intended stamp-act with astonishment; it was some time before they could believe it possible, that a parliament which they regarded with respect could be guilty of such an outrage against their rights; that a house of commons, who existed only by the election of the people of England, who would not suffer any other branch of the legislature to touch the property of the people, because they only are deputed by them, should seriously resolve that it might be just and expedient for them to give and grant the property of the people of America. One reads, to this moment, such a resolution with a mixture of astonishment and ridicule. Had they resolved that it would be just and proper for that house to turn all the white people in America into blacks, it would not have been more ridiculous. For God's sake whence did they derive the right of giving the property of the people of America? Did that people ever delegate to them such a right? Can such a right exist without the delegation of the community to whom the property belongs? Yet from this absurd resolution we proceeded to acts which have alienated and inflamed all America. Are the Americans to blame for all this? Are they culpable for the consequences? Are we to put fire in a man's hand and punish him for expressing a sense of pain and endeavouring to reject it. Are the Americans divested of the feelings of humanity? If they are not, the things which are calculated to rouse and irritate those feelings, must have their effects. In these circumstances

cumstances, the tea was destroyed at Boston by persons unknown. Without enquiring after the guilty, without evidence, without a hearing, (their agent refused a hearing, upon a quibble which would have disgraced the Old Bailey) we proceed to punish the town of Boston, to a thousand times the amount of the damage sustained. But this was not enough ; in violation of the royal faith, we alter their charter, without any act of forfeiture even pretended. Their juries who were chosen by lot, and therefore as far as human precaution could effect, were rendered impartial, we have directed to be returned by the sheriff, who is a creature of the governor's appointment ; and thus a way is found out to have the lives, liberties and property of the people at the mercy of the crown, under the form of law, by pack'd juries as well as dependent judges. These are the measures which are to calm the commotions of America, and restore the harmony we have interrupted. Yet after all these proceedings, calculated to exasperate and inflame the Americans, and to convince them that we have neither justice nor wisdom to guide us, the men who have been instrumental in all this are gravely told, that the "temper and firmness with which they have acted, will ensure success"—and that a bill for establishing popery and arbitrary government in America "is founded upon the clearest principles of humanity and justice." On any other occasion one would have been tempted to think this was said to ridicule them ; let it have been meant as it will, such praise is the severest satire.

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Spirit of the Steuarts, look down and wonder !
This single transaction will put all your merits
to the blush !

Every step we have taken respecting America, for ten years past, has been repugnant to the practice of our ancestors. It was their policy to conciliate the people, and secure their commerce to Great Britain. Our system has been to alienate and irritate them. We have made it a public virtue in America to discontinue all commerce with us, and to encourage smuggling ; we shall attempt, perhaps too late, to return to the wisdom of former times. If there were any defects in the American constitutions, we have not taken the proper steps to rectify them. "Time only, and long experience," says Sully, "can bring remedies to the defects in a state whose form is already determined ; and this ought always to be attempted, with a view to the plan of its original constitution : this is so certain, that whenever we see a state conducted by measures contrary to those made use of in its foundation, we may be assured a great revolution is at hand."*

The American constitutions were modelled upon that of England. We have began the reformation : but the taxing the people without their being represented—the depriving them of all influence in the government—the abolition of juries in part, and rendering the rest liable to be pack'd by the crown officers—the making their judges dependent, and their governors absolute—the empowering custom-house officers,

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* Memoirs, v. 2.

at their pleasure, to break open a man's doors, cabinets, chests, &c. rendering his house no longer his castle of protection—these are the reformatations we have attempted in America. They are indeed with a view to the original constitution, but manifestly with a view to overturn it. The event will shew whether Sully's consequence will follow, whether a great revolution will ensue. In my judgment it will be inevitable, unless the intervention of the people at large, who in every view are interested to prevent it, should exert those powers which they have in the state, and prevail on parliament to retract all those obnoxious, unconstitutional measures, and restore America to that state in which they were at the end of the war. Our commerce with her then was uninterrupted, prosperous and profitable; our authority over her was fully sufficient to preserve this advantage. By arrogating more, we endanger the loss of the whole, either by the destruction or disconnection of the people upon whom it depended.

That our authority over America, and the advantages we derived from her, before these measures commenced, were as great as in reason and justice we should require, is the opinion of a wise and well informed foreigner; a writer who has viewed the state of all the European colonies, with great impartiality and attention; I mean the celebrated author of the *Histoire philosophique des Indes*. His sentiments are these:

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“ Great Britain enjoys all the power over
 “ her colonies that she ought to desire. She
 “ has a negative on all the laws they make.
 “ The executive power is entirely in the hands
 “ of her delegates. There is an appeal to her
 “ from all their civil courts. All their com-
 “ mercial movements are in her arbitration.
 “ To increase the yoke of a domination so
 “ wisely framed, would be to plunge the con-
 “ tinent anew into that disorder from which
 “ they have hardly extricated themselves by
 “ two centuries of continual labour and hard-
 “ ships—it would be to compel the industrious
 “ labourers, who have cleared it, to arm in
 “ defence of those sacred rights which they
 “ hold equally from nature and society. The
 “ people of England, a people so devoted to
 “ liberty, who have sometimes protected it in
 “ regions unallied to them—can they forget
 “ those principles which their glory, their vir-
 “ tue, their feelings, their safety, render an
 “ eternal duty ? Will they betray those rights,
 “ which are so dear to themselves, so far as
 “ to contribute to reduce their brothers to
 “ slavery ? If however it should happen, that
 “ some incendiary spirits should devise so fatal
 “ a measure, and in some moment of madness
 “ should have it adopted by Great Britain,
 “ what ought then to be the conduct of the
 “ colonies. to prevent their falling under the
 “ most odious servitude ?

“ Before they proceed to extremities, they
 “ should remember all the advantages they
 “ derive from the more powerful state.

“ England

“ England has always been a bulwark to
 “ them, against the nations of Europe. She
 “ has been a guide to them, and a preserver
 “ from those civil dissensions, which jealousy
 “ and rivalry but too often excite among nei-
 “ bouring states, in their infancy and progress.
 “ It is to the influence of her excellent consti-
 “ tution that they owe the prosperity they en-
 “ joy. As long as the colonies continue under
 “ wise and moderate regulations, they will con-
 “ tinue to extend the progress of their industry
 “ to the farthest extremity of their country.

“ But may their love for Great Britain be,
 “ in the mean time, accompanied by a certain
 “ jealousy of their liberties. Let their rights
 “ be frequently examined, discussed and ex-
 “ plained. Let them cherish those as their best
 “ citizens, who incessantly warn them. This
 “ jealous spirit is necessary in all free states;
 “ but more especially in a mixed constitution,
 “ where liberty is joined with a certain depen-
 “ dence necessary to the connection between two
 “ distant states. Such vigilance will be the
 “ surest guardian of that union, which ought
 “ for ever to connect Great Britain and her
 “ American colonies.

“ But if the ministry, which always, even
 “ in free states, consists of ambitious men,
 “ should attempt to augment the power of the
 “ crown, or the revenue of the state, to the
 “ injury of the colonies, they ought firmly to
 “ resist the usurpation—Yet they are too much
 “ enlightened not to know, that they cannot
 “ be justified in proceeding to extremities, till

“ they

“ they have tried every means of obtaining redress in vain:” but they know too, that if they are driven to the necessity of chusing slavery or war, if they are compelled to take up arms in defence of their liberty, they ought not to fully so noble a cause with all the horrors and cruelties of sedition; and with the determined purpose of not sheathing the sword, till their rights are vindicated, they should be satisfied with the recovery of their former privileges.”

Prejudice and imaginary interests, artfully laid before us, have made us view the whole of this business thro’ a false medium; but this philosopher, who sees the whole with an equal and impartial eye, whose examination of the state of our connection with America, has made him a competent, and his disinterestedness an upright judge, can clearly perceive the unwise and unjust policy of our proceedings. The universal discontent in America, where no such temper was ever heard of before the commencement of these measures, ought to convince us that they labour under real grievances. It is an infallible truth, what the Duke de Sully has observed—*Pour la peuple, ce n’est jamais par envie d’attaquer, qu’elle se souleve; mais*

* The Americans have in fact exhausted every peaceable means of obtaining redress. For seven years they have incessantly complained and petitioned for redress; their return has invariably been a repetition of injuries, aggravated by the most intolerable insults. There has not been a single instance in which they have complained, without being rebuked, or in which they have been complained against, without being punished.

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*par impatience de souffrir.** The people never rise from a desire of doing, but from an impatience of suffering injuries. But not only that love of tranquility, which witholds people in general from commotions, operated with the Americans, but the additional motives of affection and respect, which made them always regard this country as their home. These were habits arising from education, which always take the strongest possession of the human mind. Nothing indeed could have overcome the restraint of these feelings, but so palpable an invasion of their rights and liberties, as convinced them there was a design in his majesty's ministers to enslave them. As the true descendants of Englishmen, they are jealous of their liberty, and prize it beyond all earthly blessings. It is a spirit we ought to respect, even in its excesses, because there is always more danger of its sinking into slavery, than of its rising into licentiousness. When we censure the struggles of other people for their liberties, I am afraid we shall not long contend for our own. No man, says the gallant Lord Moleworth, can be a sincere lover of liberty, who is not for encreasing and communicating that blessing to all people: and therefore the giving or restoring it, not only to our brethern of Scotland and Ireland, but even to France itself, were it in our power, is one of the principal articles of Whiggism.

May the liberties of England be immortal—
but may Englishmen ever remember, that the
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* V. I. p. 133.

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same arbitrary spirit which prompts an invasion of the constitution in America, will not long leave that of England unattacked; and that the same corrupt servility in their members, will make them the instruments of the crown in all its attempts

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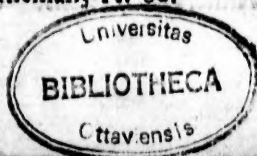
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